



भारत का राजपत्र

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दं. 28] नई दिल्ली, बृहस्पतिवार, मई 19, 1988/वैशाख 29, 1910
No. 28] NEW DELHI, THURSDAY, MAY 19, 1988/VAISAKHA 29, 1910

इस भाग में भिन्न पृष्ठ तंत्रमा ही जाती है जिससे कि यह अलग संकलन
की रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 19th May, 1988/Vaisakha 29, 1910 (Saka)

THE BENAMI TRANSACTIONS (PROHIBITION OF THE RIGHT TO RECOVER PROPERTY) ORDINANCE, 1988

No. 2 OF 1988

Promulgated by the President in the Thirty-ninth Year of the
Republic of India.

An Ordinance to prohibit the right to recover property held *benami*
and for matters connected therewith or incidental thereto.

WHEREAS Parliament is not in session and the President is satisfied
that circumstances exist which render it necessary for him to take
immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of
article 123 of the Constitution, the President is pleased to promulgate the
following Ordinance:—

1. (1) This Ordinance may be called the *Benami* Transactions (Prohibition of the Right to Recover Property) Ordinance, 1988.

(2) It extends to the whole of India except the State of Jammu and
Kashmir.

(3) It shall come into force at once.

Short title,
extent and
commencement.

Prohibition
of the right
to recover
property
held
benami.

2. (1) No suit, claim or action to enforce any right in respect of any property held *benami* against the person in whose name the property is held or against any other person shall lie by or on behalf of a person claiming to be the real owner of such property.

(2) No defence based on any right in respect of any property held *benami*, whether against the person in whose name the property is held or against any other person, shall be allowed in any suit, claim or action by or on behalf of a person claiming to be the real owner of such property.

(3) Nothing in this section shall apply,—

(a) where the person in whose name the property is held is a co-parcener in a Hindu undivided family and the property is held for the benefit of the co-parceners in the family; or

(b) where the person in whose name the property is held is a trustee or other person standing in a fiduciary capacity, and the property is held for the benefit of another person for whom he is a trustee or towards whom he stands in such capacity.

3. Nothing in this Act shall affect the provisions of section 53 of the Transfer of Property Act, 1882, or any law relating to transfers for an illegal purpose.

4 of 1882.

Act not
to apply
in cer-
tain
cases.

Repeal
of pro-
visions
of cer-
tain
Acts.

4. (1) Section 82 of the Indian Trusts Act, 1882, section 66 of the Code of Civil Procedure, 1908 and section 281A of the Income-tax Act, 1961, are hereby repealed.

2 of 1882.
5 of 1908.
43 of 1961.

(2) For the removal of doubts, it is hereby declared that nothing in sub-section (1) shall affect the continued operation of section 281A of the Income-tax Act, 1961, in the State of Jammu and Kashmir.

43 of 1961.

R. VENKATARAMAN,
President.

S. RAMAIAH,
Secy. to the Govt. of India.